

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BUILD-A-BEAR WORKSHOP, INC,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:24-cv-00211
)	
KELLY TOYS HOLDINGS, LLC,)	
KELLY AMUSEMENT HOLDINGS, LLC,)	JURY TRIAL DEMANDED
JAZWARES, LLC, and JAZPLUS, LLC.)	
)	
Defendants.)	

**MOTION TO ENJOIN DEFENDANTS FROM PROCEEDING WITH BAD FAITH,
LATER-FILED LAWSUIT**

COMES NOW Plaintiff Build-A-Bear Workshop, Inc. (“Plaintiff” or “Build-A-Bear”), by and through its undersigned counsel, and for its Motion to Enjoin Kelly Toys Holdings, LLC, Kelly Amusement Holdings, LLC, Jazwares, LLC, and Jazplus, LLC (collectively the “Defendants”) from Proceeding with Bad Faith, Later-Filed Lawsuit, states as follows:

1. Build-A-Bear filed its Complaint for Declaratory Judgment on February 12, 2024 at 9:59 a.m. CST, and served the same on all Defendants at 2:05 p.m. CST that same day.
2. Defendants filed a Complaint for Trade Dress Infringement Under the Lanham Act, Common Law Trade Dress Infringement, Copyright Infringement Under the Copyright Act, Common Law Unfair Competition, and California Statutory Unfair Competition against Build-A-Bear in the United States District Court for the Central District of California (the “California Lawsuit”) later on February 12, 2024 and served Build-A-Bear on February 13, 2024.
3. Pursuant to *Northwest Airlines, Inc. v. American Airlines, Inc.*, 989 F.2d 1002 (8th Cir. 1993), Defendants should be enjoined from proceeding with the California Lawsuit and this

action should proceed because, among other things, Build-A-Bear was the first to file, and Defendants have engaged in bad faith litigation tactics and blatant forum shopping.

4. Plaintiff's Memorandum in Support of this Motion to Enjoin Defendants from Proceeding with Bad Faith, Later-Filed Lawsuit is filed contemporaneously herewith and incorporated herein.

WHEREFORE, for all the foregoing reasons, and those more fully set forth in Plaintiff's Memorandum in Support, Plaintiff Build-A-Bear Workshop, Inc. respectfully requests that this Court enjoin Defendants from proceeding in the California Lawsuit in favor of this first-filed action, and grant such other and further relief as this Court deems just and proper under the circumstances.

Respectfully submitted,

Dated: February 16, 2024

LEWIS RICE LLC

By: /s/ Michael J. Hickey
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***Attorneys for Plaintiff
Build-A-Bear Workshop, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of February 2024, a copy of the foregoing was filed electronically. Further, I certify that a true and accurate copy of the foregoing will be served on Defendants' Registered Agent, Corporation Service Company at 251 Little Falls Drive, Wilmington, DE 19808, with a courtesy copy provided by email to:

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Attorneys for Defendants

/s/ Michael J. Hickey